

PROHIBIT VEHICLES OTHER THAN SNOWMOBILES ON SNOWMOBILE TRAILS

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House Bills 4535 (H-2) and 4536 as passed by the House
Sponsor: Rep. Ken Borton
Committee: Natural Resources and Outdoor Recreation
Complete to 12-2-21

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4535 would amend the Natural Resources and Environmental Protection Act (NREPA) to prohibit a motor vehicle other than a snowmobile from operating on certain trails from December 1 through March 31, and House Bill 4536 would amend the Revised Judicature Act to reflect the changes to NREPA proposed by House Bill 4535.

FISCAL IMPACT: The bill may increase revenue for the Department of Natural Resources (DNR) by expanding the conditions under which revenue is generated for the Snowmobile Trail Improvement Fund. This fund has averaged \$8.8 million in annual revenue over the past five fiscal years. The department uses the fund primarily to support the Snowmobile Local Grants Program, which provides grants to local units of government, snowmobile clubs, and other organizations to maintain and expand the state's snowmobile trail system; this program was appropriated at \$8.1 million in FY 2020-21. The bill is unlikely to affect departmental costs, beyond a possible increase to DNR law enforcement contingent upon the extent of additional regulatory responsibility, and is unlikely to directly affect local government revenues or costs.

THE APPARENT PROBLEM:

According to committee testimony, many off-road vehicle (ORV) trails are groomed in the winter months for use as snowmobile trails. Grooming these trails during the winter ensures that the trails are safe for snowmobilers to use. However, vehicles with wheels can create large ruts that can be impossible to groom out. This causes irreparable damage to snowmobile trails and poses deadly risks to snowmobile riders, who can be severely injured when hitting a rut while traveling at high speeds. Additionally, many of these trails are narrow, with blind corners and sharp turns. While these trails are manageable for multiple snowmobiles to traverse, a dangerous situation is created when snowmobilers abruptly encounter a wheeled vehicle on the other side of the turn and immediately find that there is not room on the trail for both the snowmobile and the wheeled vehicle. To address these concerns, legislation has been proposed to prohibit wheeled vehicles on snowmobile trails.

THE CONTENT OF THE BILLS:

House Bill 4535 would add section 82163 to Part 821 (Snowmobiles) of NREPA to prohibit a person from operating a *motor vehicle* other than a *snowmobile* on a trail from December 1 through March 31 each year if both of the following apply:

- The trail is part of the statewide trail network established under NREPA¹ and is designated for snowmobile use.
- The trail is snow-covered, and the snow is groomed for snowmobile use.

¹ See MCL 324.72114: <http://legislature.mi.gov/doc.aspx?mcl-324-72114>

The bill would amend the definition of *snowmobile* for purposes of Part 821 to mean a vehicle that is engine-driven, has an endless belt tread, was originally manufactured solely for operation over snow, and is steered by two sled-type runners or skis that are in contact with the snow, with a distance (except for a *historic snowmobile*) of not more than 48 inches between the centers of the spindles. Snowmobile would not include an ORV that requires a license under NREPA or a vehicle required to be licensed under the Michigan Vehicle Code.

Historic snowmobile means a snowmobile over 25 years old that is owned solely as a collector's item and for occasional use and for participation in club activities, exhibitions, tours, parades, and similar uses, including mechanical testing.

For purposes of the bill, *motor vehicle* would mean any vehicle that is self-propelled, except for a power-driven mobility device (as defined in the Michigan Vehicle Code) when it is being used by an individual with a mobility disability.

The bill would allow for exceptions from the above prohibition in the following circumstances:

- If the motor vehicle is being used for emergency or law enforcement purposes.
- If the motor vehicle is being used for approved grooming activities on the trail.
- If the portion of the trail on which the vehicle is operated is a crossing with a highway or street or a trail where operation of the vehicle is otherwise authorized.
- If and to the extent the DNR waives the prohibition for department-sponsored events or other circumstances as determined by the director of the department or a designee.

A person who violates the new section would be responsible for a state civil infraction and could be ordered to pay a civil fine of up to \$200. A fine resulting from a violation of the new section would be deposited into the Recreational Snowmobile Trail Improvement Subaccount, in addition to its current funding sources.

Additionally, section 82110 of NREPA now requires \$5 of each fee collected under section 82105 to be deposited into the Recreational Snowmobile Trail Improvement Subaccount. The bill would remove this provision and instead require that a portion of each registration fee collected for a historic snowmobile under section 82106 be deposited into the subaccount.²

MCL 324.82101 and 324.82110 and proposed MCL 324.82163

House Bill 4536 would exempt the civil fine collected for a violation of section 82163 of NREPA (proposed by House Bill 4535) from being used to support public libraries and county law libraries in Michigan.

Currently under the act, all civil fines of a state statute are exclusively applied to the support of public libraries and county law libraries. The bill would amend this provision to allow the civil fines collected for a violation of the new NREPA section to be deposited into the Recreational Snowmobile Trail Improvement Subaccount.

MCL 600.8831

The bills are tie-barred, which means that neither can take effect unless both are enacted.

² Section 82106 provides for allocation of fees: <http://legislature.mi.gov/doc.aspx?mcl-324-82106>

ARGUMENTS:

For:

Supporters of the bills argue that keeping as many wheeled vehicles off snowmobile trails as possible is imperative so that the trails stay rideable and safe for snowmobilers. Additionally, the new funds raised through the bills would provide more funding to keep the trails properly groomed for safe snowmobiling.

Against:

Concerns were raised during committee testimony, with some arguing that more education should be provided to ORV riders about snowmobile trails before instituting the prohibition and penalties for wheeled vehicles. Reportedly, most ORV drivers are unaware that they are on snowmobile trails, and simple signage could go a long way to ensure proper usage of and traffic on the trails.

In addition, some argued that because section 9 of Article VIII of the state constitution requires all penal fines to be directed to libraries,³ the exemption proposed by HB 4536 would be unconstitutional and that the collection of civil fines under the bills could not be diverted from supporting public libraries and county law libraries in Michigan.

Response:

While all *penal* fines are constitutionally mandated to be directed to libraries, this provision does not apply to *civil* fines, which are directed to libraries by statute. This statute would be amended by House Bill 4536 specifically to allow money collected from the civil fine proposed by House Bill 4535 to be directed into the Recreational Snowmobile Trail Improvement Subaccount.

POSITIONS:

Representatives of the following entities testified in support of the bills (6-17-21):

- Michigan Snowmobile and ORV Association
- ORV Advisory Workgroup

A representative of the Department of Natural Resources testified with a neutral position on the bills. (6-17-21)

A representative of the Michigan Library Association testified in opposition to the bills. (6-17-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

³ See https://www.michigan.gov/libraryofmichigan/0,9327,7-381-88855_89735_89760_89975---,00.html